

RECORDATION NO. 11444
Filed 1425

FEB 1 1980 - 11 00 AM

INTERSTATE COMMERCE COMMISSION

MAURICE T. MOORE
BRUCE BROMLEY
WILLIAM B. MARSHALL
RALPH L. MCAFEE
ROYALL VICTOR
HENRY W. DEKOSMIAN
ALLEN F. MAULSBY
STEWART R. BROSS, JR.
HENRY P. RIORDAN
JOHN R. HUPPER
SAMUEL C. BUTLER
WILLIAM J. SCHRENK, JR.
BENJAMIN F. CRANE
FRANCIS F. RANDOLPH, JR.
JOHN F. HUNT
GEORGE J. GILLESPIE, III
RICHARD S. SIMMONS
WAYNE E. CHAPMAN
THOMAS D. BARR
MELVIN L. BEDRICK
GEORGE T. LOWY
ROBERT ROSENMAN
JAMES H. DUFFY
ALAN J. HRUSKA
JOHN E. YOUNG

JAMES M. EDWARDS
DAVID G. ORMSBY
DAVID L. SCHWARTZ
RICHARD J. HIEGEL
FREDERICK A. O. SCHWARZ, JR.
CHRISTINE BESHAR
ROBERT S. RIFKIND
DAVID BOIES
DAVID O. BROWNWOOD
PAUL M. DODYK
RICHARD M. ALLEN
THOMAS R. BROME
ROBERT D. JOFFE
ROBERT F. MULLEN
ALLEN FINKELSON
RONALD S. ROLFE
JOSEPH R. SAHID
PAUL C. SAUNDERS
MARTIN L. SENZEL
DOUGLAS D. BROADWATER
ALAN C. STEPHENSON
RICHARD L. HOFFMAN
JOSEPH A. MULLINS
MAX R. SHULMAN

GRAVATH, SWAINE & MOORE

ONE CHASE MANHATTAN PLAZA

NEW YORK, N. Y. 10005

212 HANOVER 2-3000

TELEX
RCA 233663
WUD 125547
WUI 620976

RECORDATION NO. 11444-B
Filed 1425
FEB 1 1980 - 11 00 AM

INTERSTATE COMMERCE COMMISSION

No. 0-032A050

Date FEB 1 1980

Fee \$ 100.00

ICC Washington, D. C.

COUNSEL
CARLYLE E. MAW
ALBERT R. CONNELLY
FRANK H. DETWEILER
GEORGE G. TYLER

ROSWELL L. GILPATRICK
L. R. BRESLIN, JR.
GEORGE B. TURNER
JOHN H. MORSE
HAROLD R. MEDINA, JR.
CHARLES R. LINTON
ALLEN H. MERRILL

4, PLACE DE LA CONCORDE
75008 PARIS, FRANCE
TELEPHONE: 265-81-54
TELEX: 290530

33 THROGMORTON STREET
LONDON, EC2N 2BR, ENGLAND
TELEPHONE 01-606-1421
TELEX: 8814901

CABLE ADDRESSES
GRAVATH, N. Y.
GRAVATH, PARIS
GRAVATH, LONDON E. C. 2

January 31, 1980

Burlington Northern Inc.
Lease Financing Dated as of January 2, 1980
10-1/8% Conditional Sale Indebtedness
Due December 30, 1996
[CS&M Ref.: 4657-003B]

Dear Madam:

Pursuant to 49 U.S.C. § 11303(a), I enclose herewith on behalf of Burlington Northern Inc. for filing and recordation counterparts of the following documents:

1. (a) Conditional Sale Agreement dated as of January 2, 1980, between BameriLease, Inc., as Vendee, and General Motors Corporation (Electro-Motive Division), as Builder; and

(b) Agreement and Assignment dated as of January 2, 1980, between General Motors Corporation (Electro-Motive Division), as Builder, and Mercantile-Safe Deposit and Trust Company, as Agent.

2. (a) Lease of Railroad Equipment dated as of January 2, 1980, between Burlington Northern Inc. and BameriLease, Inc., as Vendee; and

(b) Assignment of Lease and Agreement dated as of

RECORDATION NO. 11444-C
Filed 1425
FEB 1 1980 - 11 00 AM
INTERSTATE COMMERCE COMMISSION

January 2, 1980, between BameriLease, Inc., as Vendee, and Mercantile-Safe Deposit and Trust Company, as Agent.

The names and addresses of the parties to the aforementioned Agreements are as follows:

(1) Agent-Vendor-Assignee:

Mercantile-Safe Deposit and Trust Company
P. O. Box 2258
Baltimore, Maryland 21203

(2) Vendee-Lessor:

BameriLease, Inc.
P.O. Box 37130
San Francisco, California 94137

(3) Builder-Vendor:

General Motors Corporation
(Electro-Motive Division)
La Grange, Illinois 60525

(4) Lessee:

Burlington Northern Inc.
176 East Fifth Street
St. Paul, Minnesota 55101

Please file and record the documents referred to in this letter and cross-index them under the names of the Agent-Vendor-Assignee, the Vendee-Lessor, the Builder-Vendor and the Lessee.

The equipment covered by the aforementioned documents consists of:

45 GMC-EMD 3,000 h.p. Model SD-40-2 diesel-electric-locomotives bearing identifying numbers BN 8127-8171 inclusive.

There is also enclosed a check for \$100 payable to the Interstate Commerce Commission, representing the fee for recording the Conditional Sale Agreement and related Agreement and Assignment (together constituting one document) and the Lease of Railroad Equipment, and related Assignment of Lease

and Agreement (together constituting one document).

Please stamp all counterparts of the enclosed documents with your official recording stamp. You will wish to retain one copy of the instruments for your files. It is requested that the remaining counterparts be delivered to the bearer of this letter.

Very truly yours,

Laurance V. Goodrich

Laurance V. Goodrich
As Agent for Burlington Northern Inc.

Interstate Commerce Commission,
Washington, D. C. 20423

Attention of Agatha L. Mergenovich,
Secretary.

Encls.

FEB 1 1980 - 11 00 AM

INTERSTATE COMMERCE COMMISSION

[CS&M Ref. 4657-003B]

ASSIGNMENT OF LEASE AND AGREEMENT dated as of January 2, 1980, (this "Assignment"), by and between BAMERILEASE, INC. (the "Lessor"), and MERCANTILE-SAFE DEPOSIT AND TRUST COMPANY, as Agent (the "Vendor") under a Participation Agreement dated as of the date hereof.

WHEREAS the Lessor is entering into a Conditional Sale Agreement dated as of the date hereof (the "Conditional Sale Agreement") with General Motors Corporation (Electro-Motive Division) (the "Builder"), providing for the sale to the Lessor of such units of railroad equipment (the "Units") described in Annex B thereto as are delivered to and accepted by the Lessor thereunder;

WHEREAS the Lessor and Burlington Northern Inc. (the "Lessee") have entered into a Lease of Railroad Equipment dated as of the date hereof (the "Lease") providing for the leasing by the Lessor to the Lessee of the Units;

WHEREAS, in order to provide security for the obligations of the Lessor under the Conditional Sale Agreement and as an inducement to the Vendor to invest in the Conditional Sale Indebtedness (as defined in paragraph 4.3(b) of the Conditional Sale Agreement), the Lessor agrees to assign for security purposes its rights in, to and under the Lease to the Vendor;

NOW, THEREFORE, in consideration of the premises and of the payments to be made and the covenants hereinafter mentioned to be kept and performed, the parties hereto agree as follows:

1. The Lessor hereby assigns, transfers and sets over unto the Vendor, as collateral security for the payment and performance of the obligations of the Lessor under the Conditional Sale Agreement, all the Lessor's right, title and interest, powers, privileges and other benefits under the Lease, including, without limitation, the immediate right to receive and collect all rentals, profits and other sums payable to or receivable by the Lessor from the Lessee under or pursuant to the provisions of the Lease whether as rent, casualty payment, indemnity, liquidated damages, or otherwise (such moneys being hereinafter called the "Payments"), and the right to make all waivers and agreements, to give all notices, consents and releases, to take all action upon the happening of an Event of Default specified in the Lease, and to do any and all other things whatsoever which the Lessor is or may become entitled to do under the Lease; *provided, however*, that, notwithstanding the foregoing, but subject to the provisions of the last paragraph of Sections 6.1 and 12.1 of the Lease, the Lessor shall be entitled to receive directly from the Lessee any indemnification provided for the Lessor under §§6 and 12 of the Lease, which indemnification is excluded from this Assignment (the "Excluded Indemnity"). In furtherance of the foregoing assignment, the Lessor hereby irrevocably authorizes and empowers the Vendor in its own name, or in the name of its nominee, or in the name of the Lessor or as its attorney, to ask, demand, sue for, collect and receive any and all Payments to which the Lessor is or may become entitled under the Lease and to enforce compliance by the Lessee with all the terms and provisions thereof.

The Vendor agrees to accept any Payments made by the Lessee for the account of the Lessor pursuant to the Lease. To the extent received, the Vendor will apply such Payments to satisfy the obligations of the Lessor under the Conditional Sale Agreement, and, so long as no event of default or event which with the lapse of time and/or demand provided for in the Conditional Sale Agreement could constitute an event of default thereunder, shall have occurred and be continuing, any balance shall be paid to the Lessor on the same date such Payment is applied to satisfy such obligations of the Lessor by bank wire at such address as may be specified to the Vendor in writing, and such balance

shall be retained by the Lessor. If the Vendor shall not receive any rental payment under §3 of the Lease when due, the Vendor shall notify the Lessor by telegraph, confirmed by registered mail, return receipt requested, at its address set forth in the Lease; *provided, however*, that the failure of the Vendor to so notify the Lessor shall not affect the obligations of the Lessor hereunder or under the Conditional Sale Agreement.

2. This Assignment is executed only as security and, therefore, the execution and delivery of this Assignment shall not subject the Vendor to, or transfer, or pass, or in any way affect or modify the liability of the Lessor under the Lease, it being agreed that notwithstanding this Assignment or any subsequent assignment, all obligations of the Lessor to the Lessee shall be and remain enforceable by the Lessee, its successors and assigns, against, and only against, the Lessor or persons other than the Vendor.

3. The Lessor will faithfully abide by, perform and discharge each and every obligation, covenant and agreement which the Lease provides are to be performed by the Lessor; without the written consent of the Vendor, the Lessor will not anticipate the rents under the Lease or waive, excuse, condone, forgive or in any manner release or discharge the Lessee thereunder of or from the obligations, covenants, conditions and agreements to be performed by the Lessee, including, without limitation, the obligation to pay the rents in the manner and at the time and place specified therein or enter into any agreement amending, modifying or terminating the Lease and the Lessor agrees that any amendment, modification or termination thereof without such consent shall be void.

4. The Lessor does hereby constitute the Vendor the Lessor's true and lawful attorney, irrevocably, with full power (in the name of the Lessor, or otherwise), to ask, require, demand, receive, compound and give acquittance for any and all Payments due and to become due under or arising out of the Lease to which the Lessor is or may become entitled, to enforce compliance by the Lessee with all the terms and provisions of the Lease, to endorse any checks or other instruments or orders in connection therewith and to file any claims or take any action or institute any proceedings which to the Vendor may seem to be necessary or advisable in the premises.

5. Upon the full discharge and satisfaction of all sums and other obligations due from the Lessor under the Conditional Sale Agreement, this Assignment and all rights herein assigned to the Vendor shall terminate, and all estate, right, title and interest of the Vendor in and to the Lease shall revert to the Lessor. Promptly following such full discharge and satisfaction, the Vendor agrees that it will advise the Lessee in writing that all sums and other obligations due from the Lessor under the Conditional Sale Agreement have been fully discharged and satisfied and instruct the Lessee that no further payments under the Lease are to be made to the Vendor.

6. The Lessor will, from time to time, execute, acknowledge and deliver any and all further instruments reasonably requested by the Vendor in order to confirm or further assure, the interest of the Vendor hereunder.

7. The Vendor may assign all or any of the rights assigned to it hereby or arising under the Lease, including, without limitation, the right to receive any Payments due or to become due. In the event of any such assignment, any such subsequent or successive assignee or assignees shall, to the extent of such assignment, enjoy all the rights and privileges and be subject to all the obligations of the Vendor hereunder.

8. This Assignment shall be governed by the laws of the State of New York, but the parties shall be entitled to all rights conferred by 49 U.S.C. §11303 and Section 86 of the Railway Act of Canada.

9. The Lessor shall cause copies of all notices received in connection with the Lease and all payments hereunder to be promptly delivered or made to the Vendor.

10. The Vendor hereby agrees with the Lessor that the Vendor will not, so long as no event of default under the Conditional Sale Agreement has occurred and is continuing, exercise or enforce, or seek to exercise or enforce, or avail itself of, any of the rights, powers, privileges, authorizations or benefits which are assigned and transferred by the Lessor to the Vendor by this Assignment, except the right to receive and apply the Payments as provided in paragraph 1 hereof, and that, subject to the terms of the Lease and the Conditional Sale Agreement, the Lessor may, so long as no event of default under the Conditional Sale Agreement has occurred and is then continuing, exercise or enforce, or seek to exercise or enforce, its rights, powers, privileges and remedies arising out of §13.1(a) of the Lease; *provided, however*, that the Lessor may, whether or not an event of default under the Conditional Sale Agreement has occurred and is then continuing, exercise or enforce, or seek to exercise and enforce, its rights, powers, privileges and remedies arising out of §13.1(a) of the Lease in respect of the Excluded Indemnity; *provided further, however*, that the Lessor shall not, without the prior written consent of the Vendor, terminate the Lease or otherwise exercise or enforce, or seek to exercise or enforce, any rights, powers, privileges and remedies arising out of §13.1(b) of the Lease or take any action which would cause any termination of the Lease.

This Assignment shall be effective upon delivery of fully executed counterparts hereof to Messrs. Cravath, Swaine & Moore, at their offices in New York, New York.


IN WITNESS WHEREOF, the parties hereto have caused this instrument to be executed in their respective corporate names by officers thereunto duly authorized and their respective corporate seals to be affixed and duly attested, all as of the date first above written.

BAMERILEASE, INC.,

By



Vice President

By


Asst. Treasurer

[CORPORATE SEAL]

ATTEST:


Assistant Vice President

MERCANTILE-SAFEDEPOSIT AND TRUST
COMPANY, as Agent,

By

Assistant Vice President

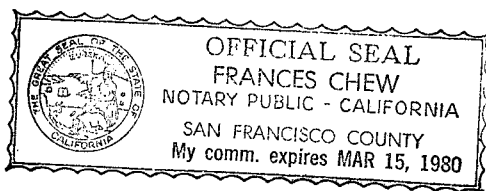
[CORPORATE SEAL]

ATTEST:

Corporate Trust Officer

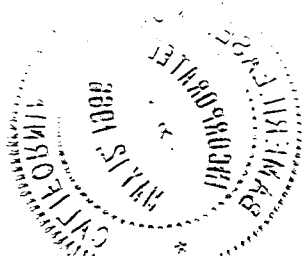
STATE OF CALIFORNIA, }
COUNTY OF SAN FRANCISCO, } ss:

On this 25 day of Jan., 1980, before me personally appeared W. H. BUCK and Cullen W. Coates,
, to me personally known, who, being by me duly sworn, say that they are a Vice President
and Asst. Treasurer, respectively, of BAMERILEASE, INC., that one of the seals affixed to the
foregoing instrument is the corporate seal of said corporation and that said instrument was signed and
sealed on behalf of said corporation by authority of its Board of Directors and he acknowledged that
the execution of the foregoing instrument was the free act and deed of said corporation.



[NOTARIAL SEAL]

My Commission expires 3/15/80



STATE OF MARYLAND, }
CITY OF BALTIMORE, } ss:

On this day of , 1980, before me personally appeared , to me personally
known, who, being by me duly sworn, says that he is an Assistant Vice President of MERCANTILE-
SAFE DEPOSIT AND TRUST COMPANY, that one of the seals affixed to the foregoing
instrument is the corporate seal of said corporation and that said instrument was signed and sealed on
behalf of said corporation by authority of its Board of Directors and he acknowledged that the
execution of the foregoing instrument was the free act and deed of said corporation.

Notary Public

[NOTARIAL SEAL]

My Commission expires

CONSENT AND AGREEMENT

The undersigned, BURLINGTON NORTHERN INC., a Delaware corporation (the "Lessee"), the lessee named in the Lease (the "Lease") referred to in the foregoing Assignment of Lease and Agreement (the "Lease Assignment"), hereby (a) acknowledges receipt of a copy of the Lease Assignment and (b) consents to all the terms and conditions of the Lease Assignment and agrees that so long as the Lease Assignment is effective:

(1) it will pay all rentals, casualty payments, liquidated damages, indemnities (except the Excluded Indemnity defined in Section 1 of the Lease Assignment) and other moneys provided for in the Lease due and to become due under the Lease directly to Mercantile-Safe Deposit and Trust Company, as Agent (the "Vendor"), the assignee named in the Lease Assignment, by bank wire transfer of immediately available funds to The Annapolis Banking and Trust Company, Main Street and Church Circle, Annapolis, Maryland, for credit to the Agent's Account No. 52076-1, with a request that The Annapolis Banking and Trust Company advise Mrs. K. M. Tollberg, Assistant Vice President, Mercantile-Safe Deposit and Trust Company, Baltimore, Maryland, that the funds are "RE: BN 1/2/80" (or at such other address as may be furnished in writing to the Lessee by the Vendor);

(2) the Vendor shall be entitled to the benefits of, and to receive and enforce performance of, all the covenants to be performed by the Lessee under the Lease as though the Vendor were named therein as the Lessor;

(3) the Vendor shall not, by virtue of the Lease Assignment, be or become subject to any liability or obligation under the Lease or otherwise; and

(4) the Lease shall not, without the prior written consent of the Vendor, be terminated or modified, nor shall any action be taken or omitted by the Lessee the taking or omission of which might result in an alteration or impairment of the Lease or the Lease Assignment or this Consent and Agreement or of any of the rights created by any thereof.

This Consent and Agreement, when accepted by the Vendor by signing the acceptance at the foot hereof, shall be deemed to be a contract under the laws of the State of Minnesota and, for all purposes, shall be construed in accordance with the laws of said State.

BURLINGTON NORTHERN INC.,

By
Vice President and Treasurer

[CORPORATE SEAL]

ATTEST:

Assistant Secretary

The foregoing Consent and Agreement is hereby accepted, as of the 2nd day of January, 1980.

MERCANTILE-SAFE DEPOSIT AND
TRUST COMPANY, as Agent,

By
Assistant Vice President

[CORPORATE SEAL]

ATTEST:

Corporate Trust Officer

ASSIGNMENT OF LEASE AND AGREEMENT dated as of January 2, 1980, (this "Assignment"), by and between BAMERILEASE, INC. (the "Lessor"), and MERCANTILE-SAFE DEPOSIT AND TRUST COMPANY, as Agent (the "Vendor") under a Participation Agreement dated as of the date hereof.

WHEREAS the Lessor is entering into a Conditional Sale Agreement dated as of the date hereof (the "Conditional Sale Agreement") with General Motors Corporation (Electro-Motive Division) (the "Builder"), providing for the sale to the Lessor of such units of railroad equipment (the "Units") described in Annex B thereto as are delivered to and accepted by the Lessor thereunder;

WHEREAS the Lessor and Burlington Northern Inc. (the "Lessee") have entered into a Lease of Railroad Equipment dated as of the date hereof (the "Lease") providing for the leasing by the Lessor to the Lessee of the Units;

WHEREAS, in order to provide security for the obligations of the Lessor under the Conditional Sale Agreement and as an inducement to the Vendor to invest in the Conditional Sale Indebtedness (as defined in paragraph 4.3(b) of the Conditional Sale Agreement), the Lessor agrees to assign for security purposes its rights in, to and under the Lease to the Vendor;

NOW, THEREFORE, in consideration of the premises and of the payments to be made and the covenants hereinafter mentioned to be kept and performed, the parties hereto agree as follows:

1. The Lessor hereby assigns, transfers and sets over unto the Vendor, as collateral security for the payment and performance of the obligations of the Lessor under the Conditional Sale Agreement, all the Lessor's right, title and interest, powers, privileges and other benefits under the Lease, including, without limitation, the immediate right to receive and collect all rentals, profits and other sums payable to or receivable by the Lessor from the Lessee under or pursuant to the provisions of the Lease whether as rent, casualty payment, indemnity, liquidated damages, or otherwise (such moneys being hereinafter called the "Payments"), and the right to make all waivers and agreements, to give all notices, consents and releases, to take all action upon the happening of an Event of Default specified in the Lease, and to do any and all other things whatsoever which the Lessor is or may become entitled to do under the Lease; *provided, however*, that, notwithstanding the foregoing, but subject to the provisions of the last paragraph of Sections 6.1 and 12.1 of the Lease, the Lessor shall be entitled to receive directly from the Lessee any indemnification provided for the Lessor under §§6 and 12 of the Lease, which indemnification is excluded from this Assignment (the "Excluded Indemnity"). In furtherance of the foregoing assignment, the Lessor hereby irrevocably authorizes and empowers the Vendor in its own name, or in the name of its nominee, or in the name of the Lessor or as its attorney, to ask, demand, sue for, collect and receive any and all Payments to which the Lessor is or may become entitled under the Lease and to enforce compliance by the Lessee with all the terms and provisions thereof.

The Vendor agrees to accept any Payments made by the Lessee for the account of the Lessor pursuant to the Lease. To the extent received, the Vendor will apply such Payments to satisfy the obligations of the Lessor under the Conditional Sale Agreement, and, so long as no event of default or event which with the lapse of time and/or demand provided for in the Conditional Sale Agreement could constitute an event of default thereunder, shall have occurred and be continuing, any balance shall be paid to the Lessor on the same date such Payment is applied to satisfy such obligations of the Lessor by bank wire at such address as may be specified to the Vendor in writing, and such balance

shall be retained by the Lessor. If the Vendor shall not receive any rental payment under §3 of the Lease when due, the Vendor shall notify the Lessor by telegraph, confirmed by registered mail, return receipt requested, at its address set forth in the Lease; *provided, however*, that the failure of the Vendor to so notify the Lessor shall not affect the obligations of the Lessor hereunder or under the Conditional Sale Agreement.

2. This Assignment is executed only as security and, therefore, the execution and delivery of this Assignment shall not subject the Vendor to, or transfer, or pass, or in any way affect or modify the liability of the Lessor under the Lease, it being agreed that notwithstanding this Assignment or any subsequent assignment, all obligations of the Lessor to the Lessee shall be and remain enforceable by the Lessee, its successors and assigns, against, and only against, the Lessor or persons other than the Vendor.

3. The Lessor will faithfully abide by, perform and discharge each and every obligation, covenant and agreement which the Lease provides are to be performed by the Lessor; without the written consent of the Vendor, the Lessor will not anticipate the rents under the Lease or waive, excuse, condone, forgive or in any manner release or discharge the Lessee thereunder of or from the obligations, covenants, conditions and agreements to be performed by the Lessee, including, without limitation, the obligation to pay the rents in the manner and at the time and place specified therein or enter into any agreement amending, modifying or terminating the Lease and the Lessor agrees that any amendment, modification or termination thereof without such consent shall be void.

4. The Lessor does hereby constitute the Vendor the Lessor's true and lawful attorney, irrevocably, with full power (in the name of the Lessor, or otherwise), to ask, require, demand, receive, compound and give acquittance for any and all Payments due and to become due under or arising out of the Lease to which the Lessor is or may become entitled, to enforce compliance by the Lessee with all the terms and provisions of the Lease, to endorse any checks or other instruments or orders in connection therewith and to file any claims or take any action or institute any proceedings which to the Vendor may seem to be necessary or advisable in the premises.

5. Upon the full discharge and satisfaction of all sums and other obligations due from the Lessor under the Conditional Sale Agreement, this Assignment and all rights herein assigned to the Vendor shall terminate, and all estate, right, title and interest of the Vendor in and to the Lease shall revert to the Lessor. Promptly following such full discharge and satisfaction, the Vendor agrees that it will advise the Lessee in writing that all sums and other obligations due from the Lessor under the Conditional Sale Agreement have been fully discharged and satisfied and instruct the Lessee that no further payments under the Lease are to be made to the Vendor.

6. The Lessor will, from time to time, execute, acknowledge and deliver any and all further instruments reasonably requested by the Vendor in order to confirm or further assure, the interest of the Vendor hereunder.

7. The Vendor may assign all or any of the rights assigned to it hereby or arising under the Lease, including, without limitation, the right to receive any Payments due or to become due. In the event of any such assignment, any such subsequent or successive assignee or assignees shall, to the extent of such assignment, enjoy all the rights and privileges and be subject to all the obligations of the Vendor hereunder.

8. This Assignment shall be governed by the laws of the State of New York, but the parties shall be entitled to all rights conferred by 49 U.S.C. §11303 and Section 86 of the Railway Act of Canada.

9. The Lessor shall cause copies of all notices received in connection with the Lease and all payments hereunder to be promptly delivered or made to the Vendor.

10. The Vendor hereby agrees with the Lessor that the Vendor will not, so long as no event of default under the Conditional Sale Agreement has occurred and is continuing, exercise or enforce, or seek to exercise or enforce, or avail itself of, any of the rights, powers, privileges, authorizations or benefits which are assigned and transferred by the Lessor to the Vendor by this Assignment, except the right to receive and apply the Payments as provided in paragraph 1 hereof, and that, subject to the terms of the Lease and the Conditional Sale Agreement, the Lessor may, so long as no event of default under the Conditional Sale Agreement has occurred and is then continuing, exercise or enforce, or seek to exercise or enforce, its rights, powers, privileges and remedies arising out of §13.1(a) of the Lease; *provided, however*, that the Lessor may, whether or not an event of default under the Conditional Sale Agreement has occurred and is then continuing, exercise or enforce, or seek to exercise and enforce, its rights, powers, privileges and remedies arising out of §13.1(a) of the Lease in respect of the Excluded Indemnity; *provided further, however*, that the Lessor shall not, without the prior written consent of the Vendor, terminate the Lease or otherwise exercise or enforce, or seek to exercise or enforce, any rights, powers, privileges and remedies arising out of §13.1(b) of the Lease or take any action which would cause any termination of the Lease.

This Assignment shall be effective upon delivery of fully executed counterparts hereof to Messrs. Cravath, Swaine & Moore, at their offices in New York, New York.

IN WITNESS WHEREOF, the parties hereto have caused this instrument to be executed in their respective corporate names by officers thereunto duly authorized and their respective corporate seals to be affixed and duly attested, all as of the date first above written.

BAMERILEASE, INC.,

By

By

[CORPORATE SEAL]

ATTEST:

MERCANTILE SAFE DEPOSIT AND TRUST
COMPANY, as Agent

By

Assistant Vice President

[CORPORATE SEAL]

ATTEST:

F. H. Gilbert
Corporate Trust Officer

On this day of , 1980, before me personally appeared and , to me personally known, who, being by me duly sworn, say that they are a and , respectively, of BAMERILEASE, INC., that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation and that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

[NOTARIAL SEAL]

STATE OF MARYLAND, }
CITY OF BALTIMORE, } SS:

On this ^{25th} day of ~~JAN~~ ^{JAN} 1980, before me personally appeared R.E. SCHREIBER, to me personally known, who, being by me duly sworn, says that he is an Assistant Vice President of MERCANTILE-SAFE DEPOSIT AND TRUST COMPANY, that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation and that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

Notary Public

[NOTARIAL SEAL]

My Commission expires

CONSENT AND AGREEMENT

The undersigned, BURLINGTON NORTHERN INC., a Delaware corporation (the "Lessee"), the lessee named in the Lease (the "Lease") referred to in the foregoing Assignment of Lease and Agreement (the "Lease Assignment"), hereby (a) acknowledges receipt of a copy of the Lease Assignment and (b) consents to all the terms and conditions of the Lease Assignment and agrees that so long as the Lease Assignment is effective:

(1) it will pay all rentals, casualty payments, liquidated damages, indemnities (except the Excluded Indemnity defined in Section 1 of the Lease Assignment) and other moneys provided for in the Lease due and to become due under the Lease directly to Mercantile-Safe Deposit and Trust Company, as Agent (the "Vendor"), the assignee named in the Lease Assignment, by bank wire transfer of immediately available funds to The Annapolis Banking and Trust Company, Main Street and Church Circle, Annapolis, Maryland, for credit to the Agent's Account No. 52076-1, with a request that The Annapolis Banking and Trust Company advise Mrs. K. M. Tollberg, Assistant Vice President, Mercantile-Safe Deposit and Trust Company, Baltimore, Maryland, that the funds are "RE: BN 1/2/80" (or at such other address as may be furnished in writing to the Lessee by the Vendor);

(2) the Vendor shall be entitled to the benefits of, and to receive and enforce performance of, all the covenants to be performed by the Lessee under the Lease as though the Vendor were named therein as the Lessor;

(3) the Vendor shall not, by virtue of the Lease Assignment, be or become subject to any liability or obligation under the Lease or otherwise; and

(4) the Lease shall not, without the prior written consent of the Vendor, be terminated or modified, nor shall any action be taken or omitted by the Lessee the taking or omission of which might result in an alteration or impairment of the Lease or the Lease Assignment or this Consent and Agreement or of any of the rights created by any thereof.

This Consent and Agreement, when accepted by the Vendor by signing the acceptance at the foot hereof, shall be deemed to be a contract under the laws of the State of Minnesota and, for all purposes, shall be construed in accordance with the laws of said State.

BURLINGTON NORTHERN INC.,

By
Vice President and Treasurer

[CORPORATE SEAL]

ATTEST:

Assistant Secretary

The foregoing Consent and Agreement is hereby accepted, as of the 2nd day of January, 1980.

MERCANTILE-SAFE DEPOSIT AND
TRUST COMPANY, as Agent,

By 
Assistant Vice President

[CORPORATE SEAL]

ATTEST:


Corporate Trust Officer

shall be retained by the Lessor. If the Vendor shall not receive any rental payment under §3 of the Lease when due, the Vendor shall notify the Lessor by telegraph, confirmed by registered mail, return receipt requested, at its address set forth in the Lease; *provided, however*, that the failure of the Vendor to so notify the Lessor shall not affect the obligations of the Lessor hereunder or under the Conditional Sale Agreement.

2. This Assignment is executed only as security and, therefore, the execution and delivery of this Assignment shall not subject the Vendor to, or transfer, or pass, or in any way affect or modify the liability of the Lessor under the Lease, it being agreed that notwithstanding this Assignment or any subsequent assignment, all obligations of the Lessor to the Lessee shall be and remain enforceable by the Lessee, its successors and assigns, against, and only against, the Lessor or persons other than the Vendor.

3. The Lessor will faithfully abide by, perform and discharge each and every obligation, covenant and agreement which the Lease provides are to be performed by the Lessor; without the written consent of the Vendor, the Lessor will not anticipate the rents under the Lease or waive, excuse, condone, forgive or in any manner release or discharge the Lessee thereunder of or from the obligations, covenants, conditions and agreements to be performed by the Lessee, including, without limitation, the obligation to pay the rents in the manner and at the time and place specified therein or enter into any agreement amending, modifying or terminating the Lease and the Lessor agrees that any amendment, modification or termination thereof without such consent shall be void.

4. The Lessor does hereby constitute the Vendor the Lessor's true and lawful attorney, irrevocably, with full power (in the name of the Lessor, or otherwise), to ask, require, demand, receive, compound and give acquittance for any and all Payments due and to become due under or arising out of the Lease to which the Lessor is or may become entitled, to enforce compliance by the Lessee with all the terms and provisions of the Lease, to endorse any checks or other instruments or orders in connection therewith and to file any claims or take any action or institute any proceedings which to the Vendor may seem to be necessary or advisable in the premises.

5. Upon the full discharge and satisfaction of all sums and other obligations due from the Lessor under the Conditional Sale Agreement, this Assignment and all rights herein assigned to the Vendor shall terminate, and all estate, right, title and interest of the Vendor in and to the Lease shall revert to the Lessor. Promptly following such full discharge and satisfaction, the Vendor agrees that it will advise the Lessee in writing that all sums and other obligations due from the Lessor under the Conditional Sale Agreement have been fully discharged and satisfied and instruct the Lessee that no further payments under the Lease are to be made to the Vendor.

6. The Lessor will, from time to time, execute, acknowledge and deliver any and all further instruments reasonably requested by the Vendor in order to confirm or further assure, the interest of the Vendor hereunder.

7. The Vendor may assign all or any of the rights assigned to it hereby or arising under the Lease, including, without limitation, the right to receive any Payments due or to become due. In the event of any such assignment, any such subsequent or successive assignee or assignees shall, to the extent of such assignment, enjoy all the rights and privileges and be subject to all the obligations of the Vendor hereunder.

8. This Assignment shall be governed by the laws of the State of New York, but the parties shall be entitled to all rights conferred by 49 U.S.C. §11303 and Section 86 of the Railway Act of Canada.

9. The Lessor shall cause copies of all notices received in connection with the Lease and all payments hereunder to be promptly delivered or made to the Vendor.

ASSIGNMENT OF LEASE AND AGREEMENT dated as of January 2, 1980, (this "Assignment"), by and between BAMERILEASE, INC. (the "Lessor"), and MERCANTILE-SAFE DEPOSIT AND TRUST COMPANY, as Agent (the "Vendor") under a Participation Agreement dated as of the date hereof.

WHEREAS the Lessor is entering into a Conditional Sale Agreement dated as of the date hereof (the "Conditional Sale Agreement") with General Motors Corporation (Electro-Motive Division) (the "Builder"), providing for the sale to the Lessor of such units of railroad equipment (the "Units") described in Annex B thereto as are delivered to and accepted by the Lessor thereunder;

WHEREAS the Lessor and Burlington Northern Inc. (the "Lessee") have entered into a Lease of Railroad Equipment dated as of the date hereof (the "Lease") providing for the leasing by the Lessor to the Lessee of the Units;

WHEREAS, in order to provide security for the obligations of the Lessor under the Conditional Sale Agreement and as an inducement to the Vendor to invest in the Conditional Sale Indebtedness (as defined in paragraph 4.3(b) of the Conditional Sale Agreement), the Lessor agrees to assign for security purposes its rights in, to and under the Lease to the Vendor;

NOW, THEREFORE, in consideration of the premises and of the payments to be made and the covenants hereinafter mentioned to be kept and performed, the parties hereto agree as follows:

1. The Lessor hereby assigns, transfers and sets over unto the Vendor, as collateral security for the payment and performance of the obligations of the Lessor under the Conditional Sale Agreement, all the Lessor's right, title and interest, powers, privileges and other benefits under the Lease, including, without limitation, the immediate right to receive and collect all rentals, profits and other sums payable to or receivable by the Lessor from the Lessee under or pursuant to the provisions of the Lease whether as rent, casualty payment, indemnity, liquidated damages, or otherwise (such moneys being hereinafter called the "Payments"), and the right to make all waivers and agreements, to give all notices, consents and releases, to take all action upon the happening of an Event of Default specified in the Lease, and to do any and all other things whatsoever which the Lessor is or may become entitled to do under the Lease; *provided, however*, that, notwithstanding the foregoing, but subject to the provisions of the last paragraph of Sections 6.1 and 12.1 of the Lease, the Lessor shall be entitled to receive directly from the Lessee any indemnification provided for the Lessor under §§6 and 12 of the Lease, which indemnification is excluded from this Assignment (the "Excluded Indemnity"). In furtherance of the foregoing assignment, the Lessor hereby irrevocably authorizes and empowers the Vendor in its own name, or in the name of its nominee, or in the name of the Lessor or as its attorney, to ask, demand, sue for, collect and receive any and all Payments to which the Lessor is or may become entitled under the Lease and to enforce compliance by the Lessee with all the terms and provisions thereof.

The Vendor agrees to accept any Payments made by the Lessee for the account of the Lessor pursuant to the Lease. To the extent received, the Vendor will apply such Payments to satisfy the obligations of the Lessor under the Conditional Sale Agreement, and, so long as no event of default or event which with the lapse of time and/or demand provided for in the Conditional Sale Agreement could constitute an event of default thereunder, shall have occurred and be continuing, any balance shall be paid to the Lessor on the same date such Payment is applied to satisfy such obligations of the Lessor by bank wire at such address as may be specified to the Vendor in writing, and such balance

10. The Vendor hereby agrees with the Lessor that the Vendor will not, so long as no event of default under the Conditional Sale Agreement has occurred and is continuing, exercise or enforce, or seek to exercise or enforce, or avail itself of, any of the rights, powers, privileges, authorizations or benefits which are assigned and transferred by the Lessor to the Vendor by this Assignment, except the right to receive and apply the Payments as provided in paragraph 1 hereof, and that, subject to the terms of the Lease and the Conditional Sale Agreement, the Lessor may, so long as no event of default under the Conditional Sale Agreement has occurred and is then continuing, exercise or enforce, or seek to exercise or enforce, its rights, powers, privileges and remedies arising out of §13.1(a) of the Lease; *provided, however*, that the Lessor may, whether or not an event of default under the Conditional Sale Agreement has occurred and is then continuing, exercise or enforce, or seek to exercise and enforce, its rights, powers, privileges and remedies arising out of §13.1(a) of the Lease in respect of the Excluded Indemnity; *provided further, however*, that the Lessor shall not, without the prior written consent of the Vendor, terminate the Lease or otherwise exercise or enforce, or seek to exercise or enforce, any rights, powers, privileges and remedies arising out of §13.1(b) of the Lease or take any action which would cause any termination of the Lease.

This Assignment shall be effective upon delivery of fully executed counterparts hereof to Messrs. Cravath, Swaine & Moore, at their offices in New York, New York.

IN WITNESS WHEREOF, the parties hereto have caused this instrument to be executed in their respective corporate names by officers thereunto duly authorized and their respective corporate seals to be affixed and duly attested, all as of the date first above written.

BAMERILEASE, INC.,

By

By

[CORPORATE SEAL]

ATTEST:

MERCANTILE-SAFEDEPOSIT AND TRUST
COMPANY, as Agent,

By
Assistant Vice President

[CORPORATE SEAL]

ATTEST:

Corporate Trust Officer

STATE OF CALIFORNIA, }
COUNTY OF SAN FRANCISCO, } ss:

On this day of , 1980, before me personally appeared and , to me personally known, who, being by me duly sworn, say that they are a and , respectively, of BAMERILEASE, INC., that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation and that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

Notary Public

[NOTARIAL SEAL]

My Commission expires _____

STATE OF MARYLAND, }
CITY OF BALTIMORE, } SS:

On this day of , 1980, before me personally appeared , to me personally known, who, being by me duly sworn, says that he is an Assistant Vice President of MERCANTILE-SAFE DEPOSIT AND TRUST COMPANY, that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation and that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

Notary Public

[NOTARIAL SEAL]

My Commission expires _____

CONSENT AND AGREEMENT

The undersigned, BURLINGTON NORTHERN INC., a Delaware corporation (the "Lessee"), the lessee named in the Lease (the "Lease") referred to in the foregoing Assignment of Lease and Agreement (the "Lease Assignment"), hereby (a) acknowledges receipt of a copy of the Lease Assignment and (b) consents to all the terms and conditions of the Lease Assignment and agrees that so long as the Lease Assignment is effective:

(1) it will pay all rentals, casualty payments, liquidated damages, indemnities (except the Excluded Indemnity defined in Section 1 of the Lease Assignment) and other moneys provided for in the Lease due and to become due under the Lease directly to Mercantile-Safe Deposit and Trust Company, as Agent (the "Vendor"), the assignee named in the Lease Assignment, by bank wire transfer of immediately available funds to The Annapolis Banking and Trust Company, Main Street and Church Circle, Annapolis, Maryland, for credit to the Agent's Account No. 52076-1, with a request that The Annapolis Banking and Trust Company advise Mrs. K. M. Tollberg, Assistant Vice President, Mercantile-Safe Deposit and Trust Company, Baltimore, Maryland, that the funds are "RE: BN 1/2/80" (or at such other address as may be furnished in writing to the Lessee by the Vendor);

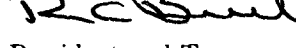
(2) the Vendor shall be entitled to the benefits of, and to receive and enforce performance of, all the covenants to be performed by the Lessee under the Lease as though the Vendor were named therein as the Lessor;

(3) the Vendor shall not, by virtue of the Lease Assignment, be or become subject to any liability or obligation under the Lease or otherwise; and

(4) the Lease shall not, without the prior written consent of the Vendor, be terminated or modified, nor shall any action be taken or omitted by the Lessee the taking or omission of which might result in an alteration or impairment of the Lease or the Lease Assignment or this Consent and Agreement or of any of the rights created by any thereof.

This Consent and Agreement, when accepted by the Vendor by signing the acceptance at the foot hereof, shall be deemed to be a contract under the laws of the State of Minnesota and, for all purposes, shall be construed in accordance with the laws of said State.

BURLINGTON NORTHERN INC.,

By 
Vice President and Treasurer

[CORPORATE SEAL]

ATTEST:


Assistant Secretary

The foregoing Consent and Agreement is hereby accepted, as of the 2nd day of January, 1980.

MERCANTILE-SAFE DEPOSIT AND
TRUST COMPANY, as Agent,

By
Assistant Vice President

[CORPORATE SEAL]

ATTEST:

Corporate Trust Officer